

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

FREDRICK K. CRAYTON,)	
)	
Petitioner,)	
)	
v.)	Case No. 4:16-cv-00833-AGF
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

MEMORANDUM AND ORDER

 This closed federal habeas matter comes before the Court on Petitioner Fredrick Crayton’s motion for relief from judgment under Federal Rule of Civil Procedure 60(b), filed in connection with the Court’s denial of Petitioner’s motion under 28 U.S.C. § 2255 to vacate, set aside, or correct his sentence. “The Supreme Court has decided that [Antiterrorism and Effective Death Penalty Act of 1996 (AEDPA)’s] procedural requirements for second or successive habeas petitions apply to motions for relief from a judgment filed under Federal Rule of Civil Procedure 60(b).” *United States v. Lee*, 792 F.3d 1021, 1023 (8th Cir. 2015), *as corrected* (Dec. 14, 2015) (citing *Gonzalez v. Crosby*, 545 U.S. 524 (2005)). A Rule 60(b) motion is construed as a second or successive habeas petition if it contains a new ground for relief that was not raised in the initial habeas petition. *See Gonzalez*, 545 U.S. at 532. “[B]efore filing a second or successive petition in district court, a habeas applicant must receive an order authorizing it from the court of appeals.” *Lee*, 792 F.3d at 1023 (citing 28 U.S.C. § 2244(b)(3)).

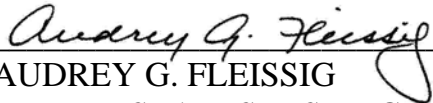
 Here, Petitioner’s Rule 60(b) motion raises a new ground for relief relating to

alleged deficiencies in the indictment and ineffective assistance of counsel in failing to challenge such deficiencies. The Court must therefore construe Petitioner's motion as a second or successive habeas petition, and Petitioner has not obtained permission from the Eighth Circuit Court of Appeals to file it. Indeed, the Eighth Circuit denied Petitioner's application in that court to file a successive habeas petition asserting similar challenges to the indictment. *See* ECF Nos. 15, 16 & 17.

Accordingly,

IT IS HEREBY ORDERED that Petitioner Fredrick Crayton's motion for relief from judgment is **DENIED**. ECF No. 18.

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AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE

Dated this 20th day of November, 2019.